

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DAVID HENRY,

Plaintiff,

v.

No. 18-13471

MICHIGAN DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

ORDER DENYING MOTION FOR RECONSIDERATION

Plaintiff has filed a motion for reconsideration concerning the court's dismissal of his *pro se* civil rights complaint. For the following reasons, Plaintiff's motion must be denied.

First, a motion for reconsideration must be filed within 14 days after entry of the judgment or order. E.D. Mich. LR 7.1(h)(1). The court dismissed the complaint on February 14, 2019. Plaintiff dated his motion for reconsideration on March 3, 2019—several days after the established time limit. His request is therefore untimely and must be denied.

Second, a motion for reconsideration which presents issues already ruled upon by the district court, either expressly or by reasonable implication, will not be granted. See *Hence v. Smith*, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999); *Czajkowski v. Tindall & Assoc., P.C.*, 967 F. Supp. 951, 952 (E.D. Mich. 1997). The court properly dismissed the complaint for the reasons stated in its dismissal order. Plaintiff fails to meet his burden of showing a palpable defect by which the court has been misled or his burden

of showing that a different disposition must result from a correction thereof, as required by Local Rule 7.1(h)(3). See E.D. Mich. LR 7.1(h)(3).

Third, to the extent that Plaintiff seeks clarification as to whether the dismissal of the civil rights complaint is with or without prejudice, the court confirms that the dismissal is with prejudice. A dismissal for failure to state a claim is a judgment on the merits and is done with prejudice. *See Pratt v. Ventas, Inc.*, 365 F.3d 514, 522 (6th Cir. 2004) (discussing dismissal under Fed. R. Civ. P. 12(b)(6)); *see also* Fed. R. Civ. P. 41(b) (effect of involuntary dismissal). This case remains closed. No further pleadings should be filed in this case. Accordingly,

IT IS ORDERED that Plaintiff's motion for reconsideration (ECF No. 8) is DENIED.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: March 20, 2019

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, March 20, 2019, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(810) 292-6522